

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

F I L E
JAN 15 2025
CLERK'S OFFICE
DETROIT

DERRICK LEE CARDELLO-SMITH, #267009,
Plaintiff,

Case No 5:24-12647

Vs

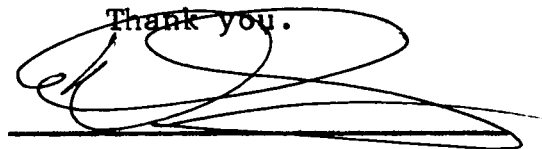
Hon. Judith Levy

SEAN COMBS,
Defendant,
_____ /

PLAINTIFFS MOTION FOR LEAVE TO FILE A SUR REPLY
TO THE DEFENDANTS REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS
WITH PLAINTIFFS SUR RRPLY ATTACHED

now comes the Plaintiff Cardello-Smith in the above
cause and hereby moves this Court to grant plaintiffs Sur
Reply to the Defendants Reply Brief in Support of Defendants
Motion to Dismiss and states the following factors contained
within the Brief in Support.

Thank you.



12-27-24

Mr. Derrick Lee Cardello-Smith
#267009
E.C. Brooks Correctional Facility
2500 S. Sheridan Drive
Muskegon, MI 49444

BRIEF IN SUPPORT

Plaintiff understands that Court Rules are very clear and to file a Sur Reply needs this Courts Permission prior to doing so and Plaintiff will always Honor what the Court Rules Say and give the Courts its due respect all the way and as such, prior this Plaintiff filing a reply to the defendants reply, plaintiff asks this Court for the Permission to File a Sur Reply and states it as so:

1. Plaintiff believes that the reply given by the Defendants demands and answer by this Plaintiff because the Defendants have brought this action to the federal court on their own initiative and have done so to simply get this matter dismissed and it deserves a reply which will in no way be affected by the court granting this plaintiffs request to have this court consider the sur reply because it will ensure the court has all factors necessary in the Issue of the Defendants Motion to Dismiss and states the response to the defendants answer would be and is important to the court having the full record and this would include the plaintiffs reply to their reply.

Plaintiff hereby asks this Court to please allow this Sur Reply to be entered into the record and grant the relief sought by granting leave to file a sur reply because it is important to this entire matter.

RELIEF SOUGHT

Wherefore, Plaintiff prays this Court will grant the Plaintiffs Leave to file a Sur Reply and grant any further relief this court deem necessary and appropriate.

Respectfully Yours,

12-10-24

A handwritten signature in black ink, appearing to read "Derrick Lee Cardello-Smith", is written over a horizontal line.

Mr. Derrick Lee Cardello-Smith

#267009

E.C. Brooks Correctional Facility

2500 S. Sheridan Drive

Muskegon, MI 49444

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK LEE CARDELLO-SMITH, #267009,
Plaintiff,

Case No 5:24-12647

Vs

Hon. Judith Levy

SEAN COMBS,
Defendant,

_____-/

PLAINTIFFS SUR REPLY TO THE DEFENDANTS
REPLY BRIEF IN SUPPORT OF DEFENDANTS
MOTION TO DISMISS AND BRIEF IN SUPPORT

Plaintiff Cardello-Smith states the following:

1. Plaintiff has served the Defendant and defendants have in fact been served on his Michigan residence and the very fact that this matter is being argued before this Court and defendant has answered the Complaint shows that the Defendant is aware of these actions and aware of this matter against him, and any issue of service is no longer of factor for the defendants to reply upon.

2. Plaintiff has made other attempts to serve the Defendant..

Plaintiff will present this Court with said proof of those other attempts to serve defendant at his Current Prison Address and for reasons outside of the Plaintiffs Control, it was rejected by the Prison Staff.

3. Plaintiffs claims are not Time Barred based on the Ongoing Doctrine, Emerging doctrine, and the Continual Threats against Plaintiff and Plaintiffs Family and Friends, ALL ATTESTED TO ON THE COURT RECORD BY AFFIDAVITS AND LETTERS FROM THOSE THREATENED, and the arguments

4. Michigan Compiled law 600.5805(2) does not apply in this case because of the fact that If Plaintiff had made this Lawsuit known to the court or the world Prior to the defendant being investigated in March 2024, the Plaintiffs family would have been killed and Plaintiff would have been aiding and assisting in the commission of Murder and that is a GREATER STATE LAW THAT CANNOT BE VIOLATED and yet, the defendants have stayed away from that one.

5. Plaintiff can rely on the doctrine of equitable tolling to save the claim, and more so, it is the Defendants who moved this case to the federal court and are now relying upon Michigan state Law to Resolve a Federal Issue only after they got it to the federal court, very suspicious is what the plaintiff says is happening with the defendants actions in this matter.

6. Plaintiff has alleged many many facts that support the tolling of the complaint, and plaintiff asks this court to allow this to stand because it is true and real.

7. Plaintiff states that the Equitable tolling argument is met under the 2nd prong because EXTRAORDINARY CIRCUMSTANCES EXIST where this Plaintiff and Victims Circumstances are completely different than other victims of the defendant, because of the cover up and actions taken by the defendant to keep it hidden and the fact that my family and friends and co investors lives were threatened on a daily basis by what I had to live with in this matter and it is something I am certain is different from all of Combs other victims and it is because I am a person hidden away and threatened to keep things quiet under the fear of my family being slaughtered by Mr. Combs, and my Friends as they have attested to.

8. Defendants tolling is allowed under this area when the narrow exception here has been shown as that the extraordinary circumstances have been detailed and outlined in this entire matter, and, most certainly, it is taken form the time of the Injury that has occurred.

9. Plaintiff states that the Injury had resurfaced upon the time that Defendants Home was Raided in March 2024 as that the Psychological Impact of What he did to me resurfaced again and I saw my chance to get justice without my family being killed and my friends being killed

because he broke the agreement that is going to be on the record.

10. Plaintiff states that the Cause of Action started from the Injury and on March 2024, the injury rehappened again by my having to live it over and over everyday and then when he was taken into custody, it truly happened again, emotionally, psychologically and in every way possible requiring this court to allow this matter to be accrued because of the INSANITY THAT HAS BEEN CAUSED BY THE DEFENDANTS ACTIONS AGAINST THIS PLAINTIFF AND ONLY BEING CURED UPON THE DEFENDANT BEING SUBJECTED TO CRIMINAL INVESTIGATION AS HAS BEEN DONE IN THIS CASE AND THEREBY CURING THE INSANITY BY THE FEDERAL OFFICIALS RAIDING THE HOMES OF THE DEFENDANT GIVING THIS PLAINTIFF THE SANITY TO THE INSANITY.

11. Plaintiff also states that if the Defendants are going to rely upon Michigan Complied State Law then they must keep in mind Laws Against Homicide, Laws against Abuse, Law Against Ongoing intimidation and other threats, laws against Everything that the Plaintiff has been subjected to by this Defendant and his associates and also, everything else that is in favor of this plaintiff, and most importantly, laws that Govern Service and When Service is made and has been made.

12. Plaintiff states that the Cases Cited do support this plaintiff position especially dealing with the THREATS and OTHER FACTORS, not the position and way that the defendants have cited it, but the way the courts have ruled and applied it and as such, their response should be rejected entirely.

13. Plaintiff rejects the claims raised by the defendants who have said that the Plaintiff refers to Kathryn Preston as "My wife" this is a married woman and a business partner and friend and nothing more, she is a married man and nothing more, so the plaintiff rejects this claim, and it is just another lie in a long list of lies told by the defendants in this matter, and it must be rejected by this court because the defendants claim is wrong and also defaming in this matter, and that is subject to legal action should this plaintiff seek to file it in a Separate action, but it will only be met by the defendants claiming that the Plaintiff is a litigious filer, and yet, they have defamed this plaintiff, and then wonder why the Plaintiff would sue them for it, either way, Plaintiff rejects this Statement by the defendants as desperate and wrong, and just another means of them to hide the truth,

which is that their client is an admitted liar and he raped me, period!

14. Plaintiff states that the Defendants claims are meritless as that the plaintiffs cases are STILL CIVIL and MUST BE ALLOWED TO APPLY TO THIS CIVIL CASE, BECAUSE IT IS CASE LAW, NO MATTER WHAT....

15. Defendants have made the claim that the plaintiffs application of Zappone does not apply to this case but to the FTCA Torts, well, it is still applicable in this Case and Plaintiff also states that this Court has full Jurisdiction to review this claim and should apply this and any other case to this matter, ESPECIALLY STATE LAWS AND FEDERAL LAWS THAT PROHIBIT A PERSON FROM COMMITTING MURDER, AND THIS WOULD HAVE HAPPENED HAD PLAINTIFF ACTED PRIOR TO THE DEFENDANTS HOME BEING RAIDED IN MARCH, 2024.

16. Plaintiffs Claim that I was intimidated into waiting over 2 decades before filing this action is VERY PLAUSIBLE as that I feared deadly retaliation from defendant which was reasonable because Defendant Combs had Tupac Shakur Killed, and it makes perfect sense and is plausible because it is real and supported by documents THAT HAVE NOT IN ANYWAY BEEN DISCREDITED BY THE DEFENDANTS WITH ANY PROOF OR OTHERWISE, and as such, it stands to reason that this court can believe that Plaintiff waited because of threats made against Plaintiff and Plaintiff states that defendant Combs is more than capable of getting anyone killed that he seeks to do, and as such, Plaintiff rejects the defendants claims and states this is a GENUINE FACTUAL CLAIM AND IT SHOULD BE PLACED BEFORE A JURY, as such, Plaintiff asks this court to reject the defendants actions and moves on this matter.

17. Plaintiffs story makes perfect sense and that if Plaintiff had filed the action prior to March 2024, plaintiff actions would have resulted in the Deaths of Many People.

18. Plaintiff states that the defendants contentions that these events are not true ARE SIMPLY RIDICULOUS and it is something that this Plaintiff rejects entirely, as that the defendant himself is beyond capable of murder and has committed many murders, so, this plaintiff rejects completely this claim by the defendants lawyers and STATES THAT THE THREATS ARE AND WERE REAL and this case should proceed to trial and

this matter SHOULDNOT BE DISMISSED.

19. Plaintiff states that the Defendant has filed lawsuits against prior MDOC employees and other people, and the fact that this is true is something that is indisputable, however, the key difference between other MDOC employees that plaintiff sued and Defendant Combs is this, COMBS IS CAPABLE OF KILLING MANY PEOPLE AT ANY TIME ANDTHOSE MDOC EMPLOYES HAVE STATED THAT THEY WORK FOR THE DEFENDANT IN SOME CAPACITY, that is the difference between DIDDY AND OTHERS...PLUS HIS MONEY GIVES HIM A LONG LONG REACH, AND YET THE DEFENDANTS LAWYERS JUST WANT TO CAST IT ASIDE, and that is deplorable.

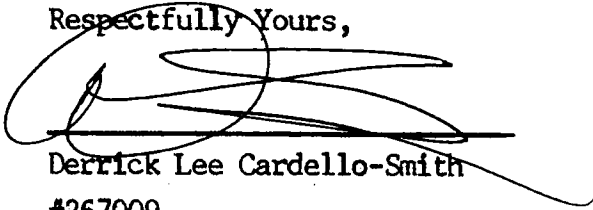
20. Plaintiff therefore states that the defendants reply brief is filled with baseless words that do not outweigh the evidence and facts that have been provided to this Court by the Plaintiff and it must be allowed to stand in favor of the Plaintiff, on multiple levels.

As such, plaintiff asks this court to deny the defendants motion to dismiss.

RELIEF REQUESTED

Wherefore plaintiff prays this court will deny the defendants motion to dismiss and allow this case to proceed to a jury trial and grant any further relief this court deems necessary and appropriate.

Respectfully Yours,

A handwritten signature in black ink, appearing to read "Derrick Lee Cardello-Smith", is written over a horizontal line. The signature is stylized with loops and flourishes.

Derrick Lee Cardello-Smith
#267009

E.C. Brooks Correctional Facility
2500 S.Sheridan Drive
Muskegon, MI 49444



Mr. Derrick Lee Cardello-Smith
#267009
E.C. Brooks Correctional Facility
2500 s. Sheridan Drive
Muskegon, MI 49444

mailed on 12-27-24
Case No 24-12647

Office of the Clerk
Case Processing Section-Room 564
United States District Court
Eastern District of Michigan
Theodore Levin US Courthouse
231 W. Lafayette Blvd
Detroit, MI 48226

U.S. MARSHALS